

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**ANTONIO GALLEGOS, KRISTIAN PETTINE,
ANDRE GALLEGOS, and K.L.P.L., a minor child,**

Plaintiffs,

vs.

No. CV-12-00224 LH-KBM

**CITY OF ESPAÑOLA, a municipal corporation,
JOE MARTINEZ, individually and in his official capacity;
JEREMY APODACA, individually and in his official capacity;
ROBERT VIGIL, individually and in his official capacity;
CITY OF ESPANOLA OFFICERS and SUPERVISORS
JOHN DOES 1 through 10, individually and in their official capacities,
CAMILLE SCARCELLA, in her individually capacity; and
STATE OF NEW MEXICO, CYFD, EMPLOYEES and SUPERVISORS
JOHN DOES 1 through 10, individually,**

Defendants.

**UNOPPOSED MOTION TO DISMISS WITH PREJUDICE
ALL CLAIMS AGAINST DEFENDANT CAMILLE SCARCELLA
AND NEW MEXICO CHILDREN YOUTH AND FAMILIES DEPARTMENT**

COMES NOW Defendant Camille Scarcella by and through counsel, Timothy V. Flynn-O'Brien, and moves this court to dismiss Plaintiffs' Second Amended Complaint with prejudice against Defendant Camille Scarcella and State of New Mexico Children Youth and Families Department. In support of this motion counsel states that the complaint fails to state claims upon which relief can be granted against Camille Scarcella and/or State of New Mexico Children Youth and Families Department and that Defendant Camille Scarcella, a social worker, is entitled to qualified immunity as there was no established law that it was unlawful for a social worker to provide foster care for a child when the parent was arrest and jailed.

Counsel for Plaintiffs consent to this motion.

Counsel for City of Espanola Defendants consent to this motion.

The parties shall bear their own costs and attorney fees.

Electronically Filed,

By: /s/Timothy V. Flynn-O'Brien

Timothy V. Flynn-O'Brien

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Attorney for Defendant Camille Scarcella

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of January, 2013 I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice for Electronic Filing:

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